

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
Telecommunications Relay Services and)	CC Docket No. 90-571
Speech-to-Speech Services for)	CC Docket No. 98-67
Individuals with Hearing and Speech)	CG Docket No. 03-123
Disabilities)	

MCI Reply Comments

I. INTRODUCTION

MCI, Inc. (“MCI”) respectfully submits the following reply comments in response to the Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceeding.¹ In its FNPRM, the Commission sought comment on a variety of issues pertaining to two IP-enabled relay services -- Internet Protocol (“IP”) Relay and Video Relay Service (“VRS”). Ten parties filed comments.² Among the issues discussed by commenting parties of particular concern to MCI Global Relay (“MCI”) involve whether to continue sole Interstate reimbursement of IP-Relay and VRS, and if not, how to determine the jurisdiction of IP Relay and VRS calls; whether

¹ Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking, CC Docket No. 90-571, CC Docket No. 98-67, CG Docket No. 03-123, rel. June 30, 2004.

² National Video Relay Service Coalition (“NVRSC”); SBC Communications Inc (“SBC”); Public Utilities Commission of Ohio (“PUCO”); Hamilton Relay, Inc. (“Hamilton”); Communication Service for the Deaf (“CSD”); Hands on Video Relay Services, Inc. (“HOVRS”); National Association for State Relay Administration (“NASRA”); Sorenson Media, Inc. (“Sorenson”); and Verizon. All comments were filed October 18, 2004.

IP Relay and/or VRS should become mandatory forms of TRS available at all times; whether federal certification is required in order for a relay provider to be reimbursed for a relay service; and whether it would be permissible for relay providers to disconnect abusive and harassing calls.

II. THERE IS OVERWHELMING SUPPORT FOR SOLE INTERSTATE REIMBURSEMENT FOR IP-ENABLED RELAY SERVICES

A. IP-Enabled Relay Services Are Solely Interstate

With the exception of NVRSC and CSD who did not comment on this issue, and Verizon, who opposed sole Interstate reimbursement, all parties support sole Interstate reimbursement for IP-enabled relay services. SBC and PUCO argued that, at a minimum, it would be premature to determine jurisdiction of IP-enabled relay services prior to determining the jurisdiction of other IP-enabled services in its IP-enabled rulemaking.³ Similarly, MCI stated that the allocation contemplated by the Commission would contravene what appeared to be a forthcoming decision to assert federal jurisdiction for IP-enabled services. And, indeed only days ago, the Commission asserted federal jurisdiction over IP-enabled voice services such as those provided by Vonage Holdings Company.⁴ Finally, SBC, HOVRS, and NASRA argued that IP-enabled services were inherently interstate (“Internet...relay is accessed over the worldwide web; the transmission likely crosses state boundaries, the call center handling the call is likely located in a different state, and the call is likely to be completed by the making of an interexchange call.”).⁵ When Congress passed the ADA, the expansion of wireless Internet

³ SBC at 2; PUCO at 3;

⁴ *FCC Finds that VONAGE Not Subject to Patchwork of State Regulations Governing Telephone Companies*. FCC Press Statement, released November 11, 2004.

⁵ HOVRS at 7. See also NASRA at 3; SBC at 3.

relay, an inherently interstate service, was exactly what it hoped would occur by requiring the Commission "...to ensure that regulations ... promote the use of existing technology and do not discourage or impair the development of improved technology."⁶

B. Neither Proxy Allocators Or Registration Are Appropriate

No party supports a proxy allocator, and even the Commission recognizes the inaccuracy associated with such an allocator,⁷ leaving some form of registration as the only alternative if an allocation of IP-enabled relay costs to the state jurisdiction were deemed to be in the public interest. Supporters of sole Interstate reimbursement argued that it would be impractical, inaccurate, and a violation of functional equivalency and innovation requirements of the Americans with Disabilities Act ("ADA") to use location registration to shift reimbursement to the states, and that the ADA did not require the Commission to allocate a portion of IP-enabled relay services to states under all circumstances.

MCI and HOVRS reiterate the long-known fact that registration of any form is strongly opposed by the user community.⁸ It raises privacy and security concerns,⁹ and with the growth of wireless access to IP-Relay and MCI's expectation that this will soon become a predominant form of access to IP-Relay,¹⁰ per-call registration would be required, contrary to Verizon's defense of registration as being analogous to a one-time account set-up associated with an

⁶ 47 U.S.C. § 225(d)(2).

⁷ FNPRM, § 223.

⁸ MCI at 8; HOVRS at 2

⁹ HOVRS at 3; Hamilton at 7

¹⁰ Only months after introducing wireless access, such calls already account for approximately one-fourth of MCI's IP-Relay traffic. Moreover, the growing predominance of wireless IP-Relay service, which is a purely interstate service, strongly argues in favor of retaining sole Interstate reimbursement for IP-Relay service

Internet Service Provider (“ISP”) account.¹¹ Not only would per-call registration be cumbersome, and still provide no guarantee of accuracy,¹² it would violate the ADA requirement to provide functionally equivalent service, since (non-disabled customers whether they use wireline, wireless or broadband services, are not required to register for each call).¹³

C. Registration Would Reduce Choice And Innovation

Most importantly, even if an allocator or registration could be reasonably accurate, and even if the Commission were to mandate the provision of IP-enabled relay services, many commentors confirmed MCI’s argument that shifting some portion of reimbursement to the states would eliminate the per-call choice of carrier that has been the engine driving the rapid innovation that characterizes these services, and would therefore constitute a violation of the ADA.¹⁴ MCI stated that the state of Maryland only reimburses a single relay provider for intrastate IP-enabled relay minutes.¹⁵ Similarly, while theoretically allowing reimbursement for more than one relay provider, the Ohio PUC would restrict reimbursement to only those relay providers that had a formal presence in Ohio.¹⁶ It would be impossible for competition to flourish if every provider of IP-enabled relay services were required to establish a call center in every state. The practical effect of PUCO’s position would be to limit intrastate reimbursement for IP-enabled relay services to the single state relay provider in every state.¹⁷ It would be a

¹¹ Verizon at 4.

¹² Hamilton at 7; Sorenson at 7; CSD at 18.

¹³ MCI at 9; HOVRS at 3;

¹⁴ 47 U.S.C. § 225(d)(2)

¹⁵ MCI at 10. See also, NASRA at 3; Sorenson at 7.

¹⁶ “PUCO at 7.

¹⁷ Although California allows more than one vendor, even there, carrier choice would be severely restricted.

grave mistake for the Commission to allow this to occur. Doing so would limit choices available to persons with speech and hearing disabilities, and reduce innovative services available to them as well. Doing so would place the Commission in violation of the ADA¹⁸ As MCI pointed out in its comments,¹⁹ the rapid development of wireless access and IP-Relay voice, a service whereby a person with a hearing or speech disability may establish “presence” from any location and be connected with a voice caller who dials a standard local phone number to reach the relay operator or 8YY number, has been made possible by efficient reimbursement of interstate-only reimbursement. This reimbursement scheme is in conformity with the ADA which requires the Commission “...to increase the utility of the telephone system ... in the most efficient manner, to hearing and speech-impaired and speech impaired individuals in the United States.”²⁰

D. Registration Won’t Reduce Fraud

Verizon is the sole party to support registration, and it does so ostensibly in order to prevent fraud, rather than as a mechanism to allocate a share of reimbursement to the states.²¹ However, fraudulent registration is the likely course of action for those who wish to engage in fraudulent activities via IP-Relay. Registration simply has no justification. As Verizon notes, the overwhelming majority of fraudulent calls were initiated overseas, but the problem is now largely under control. In December 2003, MCI began blocking certain IP-Relay calls it determined were highly likely to be made for the purpose of defrauding U.S businesses. Based on email messages that suggested these calls were originating from international locations, MCI

¹⁸ 47 U.S.C. § 225(b)(1).

¹⁹ MCI at 2.

²⁰ 47 U.S.C. § 225(b)(1)

²¹ Verizon at 3.

focused its antifraud efforts on accurately identifying internationally originated IP-Relay calls, and blocking those suspected of being made to defraud U.S. retail establishments. Due to ongoing monitoring of international usage patterns, MCI has seen the percent of possible fraudulent calls drop significantly in the last year. For this reason, MCI both urges the Commission to reject registration as a fraud control measure, and to continue IP-Relay's status as a voluntary, rather than mandatory service, in order to allow blocking of internationally originated calls that fit a calling pattern of fraudulent activity.

E. Allocation Of Relay Costs To States Is Not Required For Interstate Relay Services

MCI agrees with HOVRS that the ADA does not in all cases require the Commission to allocate a share of costs associated with the provision of every relay service to the states.²² Section 225 only requires that the Commission shall generally allocate costs of relay services to the state jurisdiction.²³ But where states do not have an FCC certified program, sole interstate reimbursement is appropriate. As MCI argued in its Comments supporting approval for IP-Relay as a relay service, when a relay service is inherently interstate and jurisdiction cannot be reasonably determined, as is the case with IP-enabled services, it is as if a state program does not exist for such services and sole federal reimbursement is appropriate.²⁴

G. Certification Is Not Required For Reimbursement

MCI also agrees with HOVRS that relay providers are not required to be certified in order to be reimbursed from the Interstate Relay Fund. Section 225 only requires the

²² HOVRS at 7.

²³ U.S.C. § 225(d)(3)(B).

²⁴ See MCI Comments filed October 18, 2004.

Commission to certify states that wish to establish a state relay program.²⁵ No other certification requirement exists in the law or in the Commission's rules. As HOVRS points out, any common carrier provider of relay services is entitled to be reimbursed from the Interstate Relay Fund for the provision of interstate relay services so long as it complies with the Commission's mandatory minimum standards.²⁶

III. THERE IS A STRONG CONSENSUS TO ALLOW RELAY PROVIDERS TO DISCONNECT RELAY CALLS WHEN THE RELAY OPERATOR IS DIRECTED TO ACT OR SPEAK IN AN ABUSIVE OR HARASSING MANNER

In its FNPRM the Commission appears to conclude that in order for a relay operator to disconnect an abusive or harassing relay call, the call must be found to *not* be a relay call.²⁷ SBC calls on the Commission to provide guidelines or distinctions allowing relay operators to disconnect certain types of abusive calls, but doesn't propose guidelines.²⁸ Certainly, abuse directed at a relay operator before connecting to the called party would qualify. Since interstate relay calls are reimbursed according to conversation minutes, harassment prior to commencement of the call would not qualify as a relay call, and a relay operator would be justified in disconnecting if he or she were subject to abuse or harassment at this point in the call flow.

However, as MCI explained in its Comments, abusers have already moved beyond this form of abuse, and have found creative ways to abuse and harass relay operators after being

²⁵ U.S.C. § 225(f)(2).

²⁶ HOVRS at 9.

²⁷ FNPRM, ¶ 258. "In particular, we seek comment on what types of calls might be deemed to fall outside the scope of a TRS call so that TRS provider could, consistent with our rules, refuse to handle such calls."

²⁸ SBC at 9

connected to the called party, who is usually also participating in or condoning the abuse.²⁹ By directing relay operators to perform in an abusive fashion, callers have violated the operator's role as a professional conduit, and are forcing operators to violate the Commission's requirement to act in accordance with hearing and speech disability etiquette.³⁰ For this reason, MCI asked the Commission to allow relay operators to provide warnings to cease this behavior and disconnect if warnings were not heeded. CSD adopts the same decision rule for VRS,³¹ as does

²⁹ MCI at 12.

³⁰ 47 C.F.R. ' 64.604(a)(1)(ii)

³¹ CSD at 35

Sorenson³². HOVRS also advocates allowing relay operators to “terminate a call where its video interpreter is subject to harassment or indecency,” whether or not the call is being set up or is in progress.³³

IV. Conclusion

For the reasons discussed above, WorldCom urges the Commission to adopt the positions advocated herein.

³² Sorenson at 16.

³³ HOVRS at 25.

Statement of Verification

I have read the foregoing, and to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct.

Executed on November 15, 2004

/s/ Larry Fenster
Larry Fenster

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Certificate of Service

I, Michelle Lopez, do hereby certify that copies of the foregoing Petition for Reconsideration of WorldCom Inc. were sent on this 15th day of November, 2004, via email (marked in *) or first-class mail, postage pre-paid, to the following:

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